

## Calendar No. 550

105TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
105-311

### LAND AND WATER CONSERVATION FUND ACT OF 1965

SEPTEMBER 8 (legislative day, AUGUST 31), 1998.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

### REPORT

[To accompany S. 1333]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1333) to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. USE OF CERTAIN RECREATIONAL FEES.

Section 4(i)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460/–6a(i)(1)) is amended by adding at the end the following:

“(C) UNITS AT WHICH ENTRANCE FEES OR ADMISSIONS FEES CANNOT BE COLLECTED.—

“(i) WITHHOLDING OF AMOUNTS.—Notwithstanding subparagraph (A), section 315(c) of section 101(c) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (16 U.S.C. 460/–6a note; Public Law 104–134), or section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1998 (16 U.S.C. 460/–6a note; Public Law 105–83), the Secretary of the Interior shall withhold from the special account under subparagraph (A) 100 percent of the fees and charges collected in connection with any unit of the National Park System at which entrance fees or admission fees cannot be collected by reason of deed restrictions.

“(ii) USE OF AMOUNTS.—Amounts withheld under clause (i) shall be retained by the Secretary and shall be available, without further Act of appropriation, for expenditure by the Secretary for the unit with respect to which the amounts were collected for the purposes of enhancing the quality of visitor experience, protection of resources, repair and maintenance, interpretation, signage, habitat or facility enhancement, resource preservation, annual operation (including fee collection), maintenance, and law enforcement.”.

## PURPOSE OF THE MEASURE

The purpose of S. 1333, as ordered reported, is to amend the Land and Water Conservation Fund Act to allow National Park System units that do not charge an entrance fee because of deed restrictions to retain 100 percent of user fees collected at the park. Currently, only Great Smoky Mountains National Park and the Lincoln Home National Historic Site have such a deed restriction.

## BACKGROUND AND NEED

The Land and Water Conservation Fund Act (LWCF), Public Law 88-578, was enacted on September 3, 1964. The Act established a funding source for Federal acquisition of park and recreation lands and matching grants to state and local governments for recreation planning, acquisition, and development of recreational facilities. The LWCF also granted the Department of the Interior the authority to charge entrance and recreation use fees at designated units of the National Park System. In 1996, FY 1997 Appropriations Act, the Department of the Interior and Related Agencies (Public Law 104-134) contained a provision which authorized each Federal land management agency to designate up to 100 sites where entrance and user fees could be retained and expended without further appropriation. With respect to National Park System units participating in the fee demonstration program, 80 percent of the fees collected are retained by the collecting park, and 20 percent are returned to the Park Service to be distributed as determined by the Director of the National Park Service.

S. 1333 would amend the LWCF Act to allow any park which cannot charge an entrance fee due to a deed restriction to retain and expend 100% of recreation use fees collected for use within that unit. There are currently two units in the National Park System with deed restrictions prohibiting entrance fees, Great Smoky Mountains National Park and Lincoln Home National Historic Site.

When Great Smoky Mountains National Park was established Tennessee and North Carolina donated the land for the park contingent on a deed restriction that precludes the National Park Service from charging admission fees at either the Tennessee or the North Carolina entrances to the park.

Great Smoky Mountains National Park collected \$1.2 million in camping and other recreation use fees in 1997 and retained \$960,000. This bill, if enacted, could provide an additional \$300,000 to \$400,000 per year for the operation of Great Smoky Mountains National Park.

## LEGISLATIVE HISTORY

S. 1333 was introduced by Senator Frist on October 29, 1997 and referred to the Committee on Energy and Natural Resources. The Subcommittee on National Parks, Historic Preservation, and Recreation held a hearing on S. 1333 on July 9, 1998.

At its business meeting on July 29, 1998, the Committee on Energy and Natural Resources ordered S. 1333, as amended, favorably reported.

## COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 29, 1998, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 1333, if amended as described herein.

## COMMITTEE AMENDMENT

During the consideration of S. 1333, the Committee adopted an amendment in the nature of a substitute, which authorizes the Secretary to retain 100 percent of fees and charges collected in any unit of the Park System where entrance fees or admissions fees cannot be collected by reason of deed restrictions. The amendment provides that funds collected can be used for the following purposes: enhancing the quality of the visitor experience, protection of resources, repair and maintenance, interpretation, signage, habitat or facility enhancement, resource preservation, annual operations (including fee collection), maintenance, and law enforcement.

## SUMMARY OF S. 1333

S. 1333 amends the Land and Water Conservation Fund Act of 1965 authorizing parks, which cannot collect entrance fees due to deed restrictions, to retain 100 percent of all other fees for use within that unit.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 21, 1998.*

Hon. FRANK H. MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1333, a bill to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill).

Enclosure.

*S. 1333—A bill to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges*

CBO estimates that enacting S. 1333 would increase direct spending by \$500,000 a year or less through fiscal year 2001 and by about \$700,000 a year in 2002 and 2003, for a total of about \$2

million over the 1999–2003 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply. S. 1333 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no impact on the budgets of state, local or tribal governments.

S. 1333 would authorize the National Park Service (NPS) to withhold from the special account established under the Land and Water Conservation Fund Act (LWCFA) all recreation receipts collected by parks that are prohibited by deed restrictions from charging entrance fees. (Such parks may still be able to collect recreation use fees or other non-admission fees.) These receipts would be spent without further appropriation by the park that collected them for purposes such as resource protection, repair and maintenance, and collection of fees.

At present, only two parks are prohibited by deed restrictions from collecting entrance fees. One of these, the Lincoln Home National Historic Site, collects virtually no recreation receipts of any type. CBO estimates that the other, Great Smoky Mountains National Park, will collect recreation use fees of about \$700,000 in fiscal year 1998 and about \$800,000 annually through 2003. Because this park is a demonstration fee area under the temporary recreation fee program authorized by the Omnibus Consolidated Rescissions and Appropriations Act of 1996, no recreation receipts earned there will be deposited to the special account established under the LWCFA until after fiscal year 1999. As a result, the authority to withhold the park's receipts from that account would not affect direct spending until 2000. (The fee demonstration program allows the NPS to spend without further appropriation all fees collected at demonstration areas anyway, but only 80 percent of such amounts are retained by the collecting park.) Beginning in 2000, when the Great Smoky park will again charge fees under the permanent fee authority provided in the LWCFA, the provisions of S. 1333 would allow the park to retain and spend without appropriation 100 percent of any amounts it collects, rather than 15 percent as authorized under that act. CBO estimates that the resulting increase in outlays from direct spending would be less than \$500,000 in 2000, about \$500,000 in 2001, and between \$600,000 and \$700,000 for both 2002 and 2003.

The CBO staff contact is Deborah Reis. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1333. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of S. 1333, as ordered reported.

## EXECUTIVE COMMUNICATIONS

The testimony of the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF WILLIAM SHADDOX, ACTING ASSOCIATE DIRECTOR, PROFESSIONAL SERVICES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before the Subcommittee to present the Department of the Interior's views on S. 1333, a bill which would amend the Land and Water Conservation Fund Act of 1965 to allow units of the National Park System not permitted to charge entrance or admission fees to retain other fees and charges. In amending the Land and Water Act the bill would add a new subsection to Section 4(i)(1) and would allow units of the National Park System that have deed restrictions which prohibit the collection of entrance or admission fees to retain 100% of all other fees and charges. Such receipts would be available to the Secretary without further appropriation for use at the unit where collected. Mr. Chairman, the National Park Service opposes enactment of this legislation and finds it unnecessary.

As the Committee is well aware, the National Park Service is currently involved in the Recreational Fee Demonstration Program. The demonstration program provides the National Park Service broad authority for the administration and retention of recreation fees, both admission and user fees. The National Park Service retains 100% of all recreation fees collected at each fee demonstration project, with 80% of the fees remaining at the collecting park for use at that unit. Currently the program is limited to 100 projects. Pending legislation that has passed the Senate and is under discussion in the House would expand the fee demonstration program to allow all units of the National Park System to participate in the program. The fee demonstration program provides the authorities necessary for units that have deed restrictions on admission fees to retain other fees in a fair and equitable manner to all other units participating in the program.

Currently there are only two units of the National Park System that have deed restrictions that prevent charging entrance or admission fees, Great Smoky Mountains National Park and Lincoln Home National Historic Site. Great Smoky Mountains National Park is a fee demonstration park while Lincoln Home is not. Singling out these parks for special authority goes against the work that has been done both under the Recreational Fee Demonstration Program and other initiatives that are aimed at removing special treatment of one unit over another. The aim of fee legislation has been to remove restrictions and to provide as much flexibility as possible in the setting and administration of fees while at the same time providing authority

to retain the majority of recreation fee revenue at the units where it is collected.

One could argue that units with deed restrictions on imposing entrance or admission fees lose out because they cannot benefit from such fees. There are numerous units of the National Park System that do not have deed restrictions; however, due to other reasons, the imposition of entrance or admission fees is infeasible. Therefore, they are not in a position to benefit from such fees.

Because we are still in the midst of the recreational fee demonstration program it is inappropriate to tinker with one element of the Land and Water Conservation Fund regarding recreation fees. The question of deed restrictions should be addressed in our review as mandated by the fee demonstration program and any recommendation for changes in legislation should be part of the total package of changes recommended for permanent fee legislation. Allowing all units of the National Park System to participate in the fee demonstration program would ensure that all units with deed restrictions could take advantage of the broader authorities authorized under the demonstration program. S. 1693, that passed the Senate and is pending before the House, would broaden the fee demonstration program to all parks. We support enactment of that legislation and feel that it fairly and equitably addresses the needs of parks both with and without deed restrictions on admission and entrance fees.

This concludes my prepared statement. Thank you for the opportunity to testify on this matter. If I can answer any questions regarding this legislation, I will be happy to do so at this time.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1333, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

(Public Law 88-578, as amended, September 3, 1964)

\* \* \* \* \*

Section 4(i)(1) Except in the case of fees collected by the United States Fish and Wildlife Service or the Tennessee Valley Authority, all receipts from fees collected pursuant to this section by any Federal agency (or by any public or private entity under contract with a Federal agency) shall be covered into a special account for that agency established in the Treasury of the United States. Fees collected by the Secretary of Agriculture pursuant to this subsection shall continue to be available for the purposes of distribution to States and counties in accordance with applicable law.

\* \* \* \* \*

(4) \* \* \*

(A) \* \* \*

(B) \* \* \*

(C) *Units at Which Entrance Fees or Admissions Fees Cannot be Collected.*

(i) *Withholding of Amounts.* Notwithstanding subparagraph (A), section 315(c) of section 101(c) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (16 U.S.C. 460l-6a note; Public Law 104-134), or section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1998 (16 U.S.C. 460l-6a note; Public Law 105-83), the Secretary of the Interior shall withhold from the special account under subparagraph (A) 100 percent of the fees and charges collected in connection with any unit of the National Park System at which entrance fees or admission fees cannot be collected by reason of deed restrictions.

(ii) *Use of Amounts.* Amounts withheld under clause (i) shall be retained by the Secretary and shall be available, without further Act of appropriations, for expenditure by the Secretary for the unit with respect to which the amounts were collected for the purposes of enhancing the quality of the visitor experience, protection of resources, repair and maintenance, interpretation, signage, habitat or facility enhancement, resource preservation, annual operation (including fee collection), maintenance, and law enforcement.

